

SENATE BILL No. 205

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-24; IC 20-26-7-1.

Synopsis: Charter schools. Requires an authorizer to submit an annual report of certain information to the state board and the public. Prohibits an authorizer from requiring a charter school authorized by the authorizer to enter into a commercial contract with the authorizer. Limits the length of a charter agreement to not more than seven years. Requires municipal corporations and the Indiana department of administration to notify the department of education of vacant or unused buildings that are suitable for classroom use so that the buildings are included in an annual list of buildings available for sale or lease by charter schools. Requires the state board to establish a process to be used if more than one charter school applies to purchase or lease the same vacant or unused public building.

Effective: July 1, 2014.

Banks, Yoder, Kruse

January 9, 2014, read first time and referred to Committee on Education and Career Development.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 205

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 20-24-2.2-8 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2014]: **Sec. 8. (a) Each authorizer shall submit an annual report**
4 **to the state board and the public that includes the following**
5 **information:**
6 (1) **The authorizer's strategic vision for charter schools and**
7 **progress toward achieving the vision.**
8 (2) **The academic and financial performance of all operating**
9 **charter schools authorized by the authorizer, as compared**
10 **with the performance expectations for charter schools**
11 **established under this article.**
12 (3) **The status of the authorizer's charter schools, identifying**
13 **each charter school in each of the following categories:**
14 (A) **Approved but not yet open.**
15 (B) **Open and operating.**
16 (C) **Closed, including the year closed and the reason for the**



1 closure.

2 (4) The services provided by the authorizer to the charter
3 schools authorized by the authorizer and the costs of the
4 services, including the authorizer's operating costs and
5 expenses set forth in annual audited financial statements that
6 conform to generally accepted accounting principles.

7 (b) An authorizer may not require a charter school authorized
8 by the authorizer to enter into a commercial contract with the
9 authorizer.

10 (c) An authorizer shall publish information concerning the
11 performance of all charter schools in Indiana authorized by the
12 authorizer on the authorizer's Internet web site.

13 (d) The state board shall publish information concerning the
14 performance of each authorizer in Indiana on the state board's
15 Internet web site.

16 SECTION 2. IC 20-24-4-1, AS AMENDED BY P.L.280-2013,
17 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2014]: Sec. 1. (a) A charter must meet the following
19 requirements:

- 20 (1) Be a written instrument.
21 (2) Be executed by an authorizer and an organizer.
22 (3) Confer certain rights, franchises, privileges, and obligations
23 on a charter school.
24 (4) Confirm the status of a charter school as a public school.
25 (5) Be granted for:
26 (A) not less than three (3) years **or more than seven (7)**
27 **years;** and
28 (B) a fixed number of years agreed to by the authorizer and the
29 organizer.
30 (6) Provide for the following:
31 (A) A review by the authorizer of the charter school's
32 performance, including the progress of the charter school in
33 achieving the academic goals set forth in the charter, at least
34 one (1) time in each five (5) year period while the charter is in
35 effect.
36 (B) Renewal, if the authorizer and the organizer agree to renew
37 the charter.
38 (C) The renewal application must include guidance from the
39 authorizer, and the guidance must include the performance
40 criteria that will guide the authorizer's renewal decisions.
41 (D) The renewal application process must, at a minimum,
42 provide an opportunity for the charter school to:



- 1 (i) present additional evidence, beyond the data contained in
- 2 the performance report, supporting its case for charter
- 3 renewal;
- 4 (ii) describe improvements undertaken or planned for the
- 5 charter school; and
- 6 (iii) detail the charter school's plans for the next charter
- 7 term.
- 8 (E) Not later than October 1 in the year in which the charter
- 9 school seeks renewal of a charter, the governing board of a
- 10 charter school seeking renewal shall submit a renewal
- 11 application to the charter authorizer under the renewal
- 12 application guidance issued by the authorizer. The authorizer
- 13 shall make a final ruling on the renewal application not later
- 14 than March 1 after the filing of the renewal application. The
- 15 March 1 deadline does not apply to any review or appeal of a
- 16 final ruling. After the final ruling is issued, the charter school
- 17 may obtain further review by the authorizer of the authorizer's
- 18 final ruling in accordance with the terms of the charter school's
- 19 charter and the protocols of the authorizer.
- 20 (7) Specify the grounds for the authorizer to:
- 21 (A) revoke the charter before the end of the term for which the
- 22 charter is granted; or
- 23 (B) not renew a charter.
- 24 (8) Set forth the methods by which the charter school will be held
- 25 accountable for achieving the educational mission and goals of
- 26 the charter school, including the following:
- 27 (A) Evidence of improvement in:
- 28 (i) assessment measures, including the ISTEP and end of
- 29 course assessments;
- 30 (ii) attendance rates;
- 31 (iii) graduation rates (if appropriate);
- 32 (iv) increased numbers of Core 40 diplomas and other
- 33 college and career ready indicators including advanced
- 34 placement participation and passage, dual credit
- 35 participation and passage, and International Baccalaureate
- 36 participation and passage (if appropriate);
- 37 (v) increased numbers of academic honors and technical
- 38 honors diplomas (if appropriate);
- 39 (vi) student academic growth;
- 40 (vii) financial performance and stability; and
- 41 (viii) governing board performance and stewardship,
- 42 including compliance with applicable laws, rules and



- 1 regulations, and charter terms.
- 2 (B) Evidence of progress toward reaching the educational
- 3 goals set by the organizer.
- 4 (9) Describe the method to be used to monitor the charter
- 5 school's:
- 6 (A) compliance with applicable law; and
- 7 (B) performance in meeting targeted educational performance.
- 8 (10) Specify that the authorizer and the organizer may amend the
- 9 charter during the term of the charter by mutual consent and
- 10 describe the process for amending the charter.
- 11 (11) Describe specific operating requirements, including all the
- 12 matters set forth in the application for the charter.
- 13 (12) Specify a date when the charter school will:
- 14 (A) begin school operations; and
- 15 (B) have students attending the charter school.
- 16 (13) Specify that records of a charter school relating to the
- 17 school's operation and charter are subject to inspection and
- 18 copying to the same extent that records of a public school are
- 19 subject to inspection and copying under IC 5-14-3.
- 20 (14) Specify that records provided by the charter school to the
- 21 department or authorizer that relate to compliance by the
- 22 organizer with the terms of the charter or applicable state or
- 23 federal laws are subject to inspection and copying in accordance
- 24 with IC 5-14-3.
- 25 (15) Specify that the charter school is subject to the requirements
- 26 of IC 5-14-1.5.
- 27 (b) A charter school shall set annual performance targets in
- 28 conjunction with the charter school's authorizer. The annual
- 29 performance targets shall be designed to help each school meet
- 30 applicable federal, state, and authorizer expectations.
- 31 SECTION 3. IC 20-26-7-1, AS AMENDED BY P.L.17-2013,
- 32 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 33 JULY 1, 2014]: Sec. 1. (a) ~~As used in~~ **The following definitions apply**
- 34 **throughout** this section:
- 35 (1) "Charter school" has the meaning set forth in IC 20-24-1-4 and
- 36 includes a group or entity seeking approval from a sponsor to
- 37 operate a charter school under IC 20-24-3.
- 38 (2) **"Municipal corporation" does not include a school**
- 39 **corporation.**
- 40 (b) Except as otherwise provided in this section, if a governing body
- 41 of a school corporation determines that any real or personal property:
- 42 (1) is no longer needed for school purposes; or



(2) should, in the interests of the school corporation, be exchanged for other property; the governing body may sell or exchange the property in accordance with IC 36-1-11.

(c) Money derived from the sale or exchange of property under this section shall be placed in any school fund:

- (1) established under applicable law; and
- (2) that the governing body considers appropriate.

(d) A governing body may not make a covenant that prohibits the sale of real property to another educational institution.

(e) This subsection does not apply to a school building that on July 1, 2011, is leased or loaned by the school corporation that owns the school building to another entity, if the entity is not a building corporation or other entity that is related in any way to, or created by, the school corporation or the governing body. Except as provided in subsections ~~(k)~~ (l) through ~~(n)~~ (o), a governing body shall make available for lease or purchase to any charter school any school building owned by the school corporation or any other entity that is related in any way to, or created by, the school corporation or the governing body, including but not limited to a building corporation, that:

(1) either:

- (A) is not used in whole or in part for classroom instruction at the time the charter school seeks to lease the building; or
- (B) appears on the list compiled by the department under subsection (f); and

(2) was previously used for classroom instruction; in order for the charter school to conduct classroom instruction.

(f) Not later than August 1 each calendar year, each governing body shall inform the department if a ~~school~~ building that was previously used for classroom instruction is closed, unused, or unoccupied. The department shall maintain a list of closed, unused, or unoccupied ~~school~~ buildings and make the list available on the department's Internet web site. Each school corporation shall provide a list of closed, unused, or unoccupied buildings to the department by the date set by the department. The department must update the list each year before August 31.

(g) A school building that appears for the first time on the department's list under subsection (f) shall be designated as "Unavailable until (a date two (2) years after the school building first appears on the list)" if the governing body of the school corporation that owns the school building indicates to the department, on a form



prescribed by the department, that the school building may be reclaimed during that period for classroom instruction. If a governing body does not indicate that a school building may be reclaimed, the governing body shall designate the school building as "Available" on the department's list. The governing body may change the designation of a building from unavailable to available at any time. If a school building that is designated as unavailable on the department's list remains unused for classroom instruction one (1) year after being reclaimed under this subsection, the governing body shall designate the school building as "Available" on the department's list. A governing body may reclaim a school building only one (1) time under this subsection.

(h) Not later than August 1 each calendar year, the Indiana department of administration and the governing body of each municipal corporation shall inform the department if a government building that is suitable for classroom instruction is closed, unused, or unoccupied. The Indiana department of administration and each municipal corporation shall provide a list of closed, unused, or unoccupied buildings to the department by the date set by the department. The department shall include the buildings reported by the Indiana department of administration and municipal corporations in the list established under subsection (f).

(i) If a charter school wishes to use a ~~school~~ building on the list created under subsection (f), the charter school shall send a letter of intent to the department. Within thirty (30) days after receiving a letter from a charter school, the department shall notify the school corporation, **the municipal corporation, or the Indiana department of administration** of the charter school's intent, and, within thirty (30) days after receiving notification from the department, the school corporation **or the municipal corporation** that owns the ~~school~~ building, **or the Indiana department of administration**, shall lease the ~~school~~ building to the charter school for one dollar (\$1) per year for as long as the charter school uses the ~~school~~ building for classroom instruction or for a term at the charter school's discretion, or sell the ~~school~~ building to the charter school for one dollar (\$1). The charter school must begin to use the ~~school~~ building for classroom instruction not later than two (2) years after acquiring the ~~school~~ building. If the ~~school~~ building is not used for classroom instruction within two (2) years after acquiring the ~~school~~ building, the ~~school~~ building shall be placed on the department's list under subsection (f). If during the term of the lease the charter school closes or ceases using the ~~school~~



building for classroom instruction, the ~~school~~ building shall be placed on the department's list under subsection (f). If a ~~school~~ building is sold to a charter school under this subsection and the charter school or any entity related to the charter school subsequently sells or transfers the ~~school~~ building to a third party, the charter school or related entity must transfer an amount equal to the gain in the property minus the adjusted basis (including costs of improvements to the ~~school~~ building) to the school corporation, **the municipal corporation, or the Indiana department of administration** that initially sold the vacant ~~school~~ building to the charter school. Gain and adjusted basis shall be determined in the manner prescribed by the Internal Revenue Code and the applicable Internal Revenue Service regulations and guidelines.

(j) ~~(i)~~ During the term of a lease under subsection ~~(h)~~, ~~(i)~~, the charter school is responsible for the direct expenses related to the ~~school~~ building leased, including utilities, insurance, maintenance, repairs, and remodeling. The school corporation, **the municipal corporation, or the Indiana department of administration** is responsible for any debt incurred for or liens that attached to the ~~school~~ building before the charter school leased the ~~school~~ building.

(k) ~~(j)~~ Notwithstanding anything to the contrary in this section, and with the sole exception of a waiver provided in subsection ~~(n)~~, ~~(o)~~, when a ~~school~~ building is designated as "Available" under subsection (g), the ~~school~~ building must remain designated as "Available" and may not be sold or otherwise disposed of for at least two (2) years. When the two (2) year period has elapsed, the school corporation, **the municipal corporation, or the Indiana department of administration** may sell or otherwise dispose of the ~~school~~ building in accordance with **IC 4-20.5-7 or IC 36-1-11**.

~~(k)~~ ~~(l)~~ Notwithstanding subsection (e), a governing body may request a waiver from the department from the requirements of subsection (e). In order for a governing body to receive a waiver under subsection ~~(n)~~, ~~(o)~~, the governing body must apply to the department, on a form prescribed by the department, for the waiver. The application must include a statement that the governing body believes that a charter school would not be interested in leasing or purchasing the vacant or unused school building.

~~(h)~~ ~~(m)~~ If the department receives a waiver request under subsection ~~(k)~~, ~~(l)~~, the department, within five (5) days after receiving the waiver request under subsection ~~(k)~~, ~~(l)~~, shall notify each charter school sponsor and statewide organization representing charter schools in Indiana by certified mail of the waiver request received under subsection ~~(k)~~, ~~(l)~~. The notice must include a copy of the governing



body's waiver request.

~~(m)~~ **(n)** Not later than thirty (30) days after a charter school sponsor or statewide organization representing charter schools in Indiana receives a notice described in subsection ~~(h)~~, **(m)**, the charter school sponsor or a statewide organization representing charter schools may submit a qualified objection to the governing body's request for a waiver under subsection ~~(k)~~, **(l)**. The qualified objection must be submitted to the department in writing. In order for an objection to be considered a qualified objection by the department, the objection must include:

(1) the name of the charter school that is interested in leasing or purchasing the vacant or unused school building; and

(2) a time frame, which may not exceed one (1) year from the date of the objection, in which the charter school intends to begin providing classroom instruction in the vacant or unused school building.

~~(m)~~ **(o)** If the department receives a qualified objection under subsection ~~(m)~~, **(n)**, the vacant or unused school building shall remain on the department's list under subsection (f) with the designation with which the building is listed under subsection (g) at the time the department receives the waiver request. If the department does not receive a qualified objection, the department shall grant the governing body's request for a waiver. A governing body that receives a waiver under this subsection may sell or otherwise dispose of the unused or vacant school building in accordance with IC 36-1-11.

(p) The state board shall establish a process to use if more than one (1) charter school sends a letter of intent under subsection (i) to purchase or lease the same vacant or unused building. The state board shall assign weighted values to each charter school's:

(1) academic quality;

(2) financial health;

(3) community impact; and

(4) program design;

to evaluate the competing charter schools. If two (2) or more competing charter schools each receive the same total score on the evaluation, the state board shall conduct a random drawing at a public meeting to determine which charter school may purchase or lease the vacant or unused building.

